

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JOSHUA JAMES MULLENS,

Plaintiff,

v.

LAKEWOOD POLICE DEPARTMENT,

Defendant.

CASE NO. C15-5442 BHS

ORDER DECLINING REPORT  
AND RECOMMENDATION AND  
RE-REFERRING TO  
MAGISTRATE

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 7), and Plaintiff Joshua Mullens’s (“Mullens”) objections to the R&R (Dkt. 8).

On July 1, 2015, Mullens filed a 42 U.S.C. § 1983 complaint against Defendant Lakewood Police Department. Dkt. 5. The Court declined to serve Mullens’s complaint because he failed to plead sufficient facts to state a claim for relief. Dk. 6. The Court, however, granted Mullens leave to file an amended complaint by July 31, 2015. *Id.*

On August 6, 2015, Judge Strombom issued the R&R, recommending that this action be dismissed because Mullens did not file an amended complaint or otherwise

1 respond to the Court's order. Dkt. 7. On August 13, 2015, Mullens filed objections.  
2 Dkt. 8.

3 Federal Rule of Civil Procedure 72(b) governs objections to a magistrate judge's  
4 recommended disposition. Rule 72(b) provides as follows:

5 The district judge must determine de novo any part of the magistrate  
6 judge's disposition that has been properly objected to. The district judge  
7 may accept, reject, or modify the recommended disposition; receive further  
8 evidence; or return the matter to the magistrate judge with instructions.

9 Fed. R. Civ. P. 72(b)(3).

10 In his objections, Mullens provides several reasons as to why he failed to meet the  
11 deadline to amend his complaint. *See* Dkt. 8. Judge Strombom did not have the benefit  
12 of considering this information when the R&R was issued. The Court therefore declines  
13 to adopt the R&R, and re-refers this matter to Judge Strombom for consideration of the  
14 new facts and the procedural posture of this case.

15 The Court having considered the R&R, Mullens's objections, and the remaining  
16 record, does hereby find and order as follows:

- 17 (1) The R&R is **DECLINED**; and  
18 (2) This matter is **RE-REFFERED** to Judge Strombom for further  
19 consideration.

20 Dated this 28th day of September, 2015.

21 

22 BENJAMIN H. SETTLE  
United States District Judge